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Attorneys for Plaintiff
CHAD EMPEY

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHAD EMPEY,
Plaintiff,

vs.

ALLIED PROPERTY & CASUALTY
INSURANCE COMPANY, and DOES 1 to
50, inclusive,
Defendants.

Case No. 3:11-CV-00733-SC

**JOINT STIPULATION AND [PROPOSED]
ORDER TO CONTINUE THE TRIAL
DATE**

Complaint filed: January 20, 2011

Plaintiff CHAD EMPEY ("Plaintiff") and Defendant ALLIED PROPERTY &
CASUALTY INSURANCE COMPANY ("Allied") (collectively, the "Parties") through their
respective counsel present the following stipulation and proposed order regarding a continuance
of the trial date, currently set for January 30, 2012, and a continuance of the discovery deadlines
in this case so that the Parties can complete the depositions already noticed. This stipulation is
based on the following:

WHEREAS, the Parties engaged in prolonged mediation activities with Thomas H.R.

1 Denver beginning on September 23, 2011, which did not conclude until November 14, 2011.
 2 During that time, the Parties deferred all pending depositions and discovery until the mediation
 3 process was completed. The Parties have since resumed discovery, and while the Parties have
 4 been diligent in taking depositions, they will not be able to conclude all necessary depositions
 5 already noticed within the discovery cutoff date as currently set. Moreover, as a result of
 6 additional meeting and conferring, the Parties have agreed to engage in further mediation
 7 discussions. The Parties agree that continuing the trial date to May 7, 2012 will allow the Parties
 8 another opportunity to try to resolve this matter without trial. This stipulation is based on the
 9 following:

10 WHEREAS, a Status Conference was held for this matter on May 27, 2011, where the
 11 Court set the following dates:

- 12 1. Discovery Cutoff: November 30, 2011
- 13 2. Pretrial Conference Statement: No Date Set
- 14 3. Pretrial Conference: January 13, 2012
- 15 4. Jury Trial: January 30, 2012

16 WHEREAS, Defendant filed its Motion for Partial Summary Judgment on September 22,
 17 2011 in accordance with the Status Conference, and the Court set the hearing for it for December
 18 9, 2011;

19 WHEREAS, the Court thereafter continued the hearing date on the Motion for Partial
 20 Summary Judgment to January 13, 2012;

21 WHEREAS the Court also continued the discovery deadlines as follows:

- 22 1. Non-Expert Discovery Cutoff: December 23, 2011;
- 23 2. Expert Disclosures: January 2, 2012;
- 24 3. Disclosure of Rebuttal Experts: December 30, 2011;
- 25 4. Expert Discovery Cutoff: January 12, 2012.
- 26 5. Last day to hear motions: January 13, 2012.

27 WHEREAS, the Parties respectfully request that the Court continue the trial date in this
 28 matter and further modify the discovery deadlines such that the Parties can complete the

depositions already noticed as follows:

1. Non-Expert Discovery Cutoff: February 17, 2012;
2. Expert Disclosures: March 2, 2012;
3. Disclosure of Rebuttal Experts: March 16, 2012;
4. Expert Discovery Cutoff: April 6, 2012;
5. Last day to hear motions: April 6, 2012;
6. Pretrial Conference: To Be Determined
7. Jury Trial: May 7, 2012

WHEREAS the hearing date for Defendant' motion would continue to be January 13, 2012.

WHEREAS, in the interest of judicial economy and in hopes that this matter will resolve without the need for trial, the Parties seek to avoid unnecessary and costly trial preparation prior to the conclusion of all settlement efforts.

WHEREAS, this is the Parties' first request for a trial continuance. No previous request has been made.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED TO BY AND BETWEEN THE PARTIES by and through their respective counsel of record herein that the trial date be continued and the discovery deadlines be continued such that the Parties may complete the depositions already noticed:

1. Trial be continued to May 7, 2012;
2. The Pre-trial Conference be continued to a date in conformity to the new trial date;
3. Non-Expert Discovery cutoff be continued to February 17, 2012;
4. The deadline for Expert Disclosures be continued to March 2, 2012;
5. Disclosure of Rebuttal Experts be continued to March 16, 2012;
6. Expert Discovery cutoff be continued to April 6, 2012;
7. The last day to hear motions be continued to April 6, 2012;

8. The hearing date for Defendant's motion for summary judgment would continue to be January 13, 2012.

ORDER

The foregoing stipulation having been entered and good cause appearing therefor, IT IS HEREBY ORDERED that:

The current deadlines for this case shall be modified as follows:

1. The new trial date is continued to May 7, 2012.
2. The new pre-trial conference date is continued to _____.
3. The new non-expert discovery cutoff is continued to February 17, 2012;
4. The new deadline for expert disclosures is continued to March 2, 2012;
5. The new deadline for disclosure of rebuttal experts is continued to March 16, 2012;
6. The new expert discovery cutoff is continued to April 6, 2012;
7. The last day to hear motions is continued to April 6, 2012.
8. The hearing date for Defendant's motion for summary judgment will continue to be January 13, 2012.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: December 14, 2011

/s/ Donald T. McMillan

Attorneys for Plaintiff CHAD EMPEY

DATED: December 14, 2011

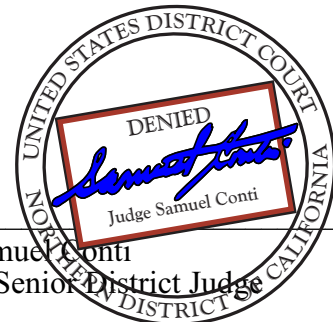
/s/ Gary T. Lafayette

Attorneys for Defendant ALLIED PROPERTY & CASUALTY INSURANCE COMPANY

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 12/14/11

Honorable Samuel Conti
United States Senior District Judge



CERTIFICATE OF SERVICE

I certify that a copy of this document was served electronically on December 14, 2011, on counsel of record in compliance with Federal Rule 5, Local Rule 5.6 and General Order 45, by use of the Court's ECF system.

/s/ Rebecca K. Kimura

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